

1 Q. It points to the Convention Center?

2 A. Yes, mm-hmm.

3 Q. That's the Convention Center sign?

4 A. Right.

5 Q. That's a City Convention Center?

6 A. Yes, it is. Never took notice to that arrow.

7 Q. What involvement, if any, did Mr. Ferrese have
8 regarding taking down the Sokolove signs --

9 A. Mr. Ferrese?

10 Q. Mr. Ferrese on July 7th --

11 MR. SPEAKMAN: Ferrese, excuse me.

12 A. Nothing. He had nothing to do with it.

13 Q. Did he direct you to take down the signs?

14 A. No.

15 Q. Was it conveyed to you through some other third
16 party that he had directed the signs be taken down?

17 A. No.

18 Q. Did you ever say that to Mr. Silverstein or
19 Mr. Sokolove, that Mr. Ferrese was involved with taking
20 these signs down?

21 A. No. I forgot who Mr. Silverstein was.

22 MR. RHODUNDA: Mr. Tucker, do you have the
23 exhibit marked with the two photographs in the back of
24 the truck? Thank you.



1 Q. Plaintiffs' Exhibit Number 9 is the photograph of
2 the back of your truck you have already testified about?

3 A. Yes.

4 Q. And actually, there are two Polaroids of the back
5 of your truck?

6 A. Right.

7 Q. Please identify for me the types of signs that
8 are in the back of the truck at the time these pictures
9 were taken.

10 A. Well, I got about six campaign signs, political
11 signs, one auction sign, two auction signs, a Pep Up
12 Heating and Air Conditioning sign. I know I have a -- I
13 know I got a real estate sign in there. But this is what
14 I can read right now.

15 Q. Does it appear there are a large number of signs
16 piled on top of each other?

17 A. Yes.

18 Q. Is it fair to say there may be other signs
19 underneath the signs that you can see?

20 A. Oh, there is a lot of signs underneath those.

21 Q. Now, the sign ordinance that you are relying on
22 to remove the signs, does it make exceptions for any
23 types of signs?

24 A. No, it doesn't.



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1 Q. So political signs were not an exception?

2 A. No.

3 MR. RHODUNDA: Let me just have a moment.

4 Be right back.

5 (Recess taken.)

6 BY MR. RHODUNDA:

7 Q. I just have a couple follow-up questions for you.

8 Has anyone associated with the City singled
9 out Mr. Sokolove's signs for removal?

10 A. No.

11 Q. And the removal of signs, is that done year-round
12 or just during summertime?

13 A. Year-round, yes.

14 Q. During those efforts to remove signs on a
15 year-round basis, just give me the types of categories of
16 signs that you would be removing.

17 A. Real estate signs, no campaign signs -- let's
18 see, real estate signs, contractor signs, subcontractor
19 signs, and a rental sign. Rental signs like private
20 person put up a rental sign on the City property.

21 Q. You have identified some businesses here as well,
22 auction houses?

23 A. Yes, auction signs. What he will do, he will put
24 them on City property and leave them there for two or

1 three days.

2 MR. RHODUNDA: I have no further questions

3 EXAMINATION

4 BY MR. TUCKER:

5 Q. Sir, I'm sorry, but your lawyer has raised some
6 issues and I have some more questions for you. I
7 apologize, but I'm going to have to ask you some more
8 questions.

9 I'm going to show you what has been marked
10 as Defense Exhibit 19 Mr. Rhodunda was just reviewing
11 with you. I'll ask you to look at that. Would you agree
12 that that sign depicted in that exhibit is located within
13 landscaping?

14 A. Mm-hmm.

15 Q. Now, I'm going to show you Exhibit 2, Tab E from
16 Plaintiffs' Memorandum in Support of Motion For Temporary
17 Restraining Order that I had shown you previously during
18 this deposition. Do you remember seeing that exhibit
19 maybe a half hour, an hour ago?

20 A. Yes.

21 Q. Do you recall the explanation you gave for why
22 you did not remove those signs?

23 A. They were behind the logs.

24 Q. The landscaping logs you referred to?



1 A. The landscaping logs.

2 Q. Can you explain for us then why on Defendants'
3 Exhibit 19 you removed a sign that was behind or within
4 landscaping, and when it came to Tab E to Exhibit 2 your
5 explanation was that you wouldn't remove that because it
6 was questionable I believe because it was landscaping?

7 A. Yeah, well, this particular sign was pointed out
8 to me by Mr. Murphy. We were riding around. That's why
9 he got a picture of my truck. But this is -- this sign
10 and particular sign up there is on the other side of the
11 poles, so we picked them up.

12 Q. Where are the poles that you can see in that
13 picture?

14 A. Where can I see them in the picture? I can't.
15 But this is definitely on the -- that would be on City
16 property, because it is on the other side of the
17 sidewalk, for one thing.

18 Q. Sir, again, Defendants' 19 I don't see the
19 sidewalk. Can you point me to the sidewalk that's in
20 that picture?

21 A. Right there.

22 Q. Is it your testimony that that little strip there
23 is a sidewalk?

24 A. Yes.

1 Q. So the rule that you don't take down signs that
2 are within landscaping doesn't apply then if there is a
3 sidewalk as well?

4 A. Well, see, this is on the other end of this
5 sidewalk. And we discussed it and he said this is
6 definitely --

7 Q. When you said "we discussed it," who is "we"?

8 A. Mr. Murphy. This is on City property.

9 Q. So you and Murphy -- I'm sorry, go ahead.

10 A. We discussed it and we picked it up, said it was
11 on City property.

12 Q. You had a very specific discussion about that
13 with Mr. Murphy?

14 A. Right.

15 Q. And you jointly decided that was on City
16 property?

17 A. Right, mm-hmm.

18 Q. That was based on exactly what, for the record?

19 A. I guess on the sidewalk and the -- we picked up a
20 lot of them. I don't remember, but I think it was based
21 on -- I don't see any poles there. It has to be on the
22 sidewalk. To be honest with you, I don't, I don't see
23 any poles. But that's the end of the sidewalk there, so
24 it was probably based on that.



1 Q. You said you picked up a lot of signs.

2 A. That morning?

3 Q. Generally, I think you said?

4 A. Oh, generally.

5 Q. Is that what you meant when you said you picked
6 up a lot of signs?

7 A. We picked up about five or six that morning, yes.

8 Q. Mr. Rhodunda has shown you all these pictures
9 that he has marked Defendants' I think probably 1 through
10 19. Have you seen this pictures before today?

11 A. Yes.

12 Q. When did you first see them?

13 A. Probably yesterday.

14 Q. And who did you review them with? Your
15 attorneys?

16 A. Yes.

17 Q. And these marks that you have put on these
18 pictures, 1 through 19, Defendants' 1 through 19, are you
19 absolutely certain beyond any doubt that those are the
20 exact locations that you removed signs?

21 A. The ones I marked, yes.

22 Q. Beyond any doubt?

23 A. Right.

24 Q. Over ten days later you are certain of that?

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1 A. I know exactly where they were.

2 Q. Did you go back out to the sites and look to
3 confirm?

4 A. No.

5 Q. You are relying exclusively on the pictures?

6 A. On the pictures?

7 Q. Yes.

8 A. Yes.

9 Q. When were Mr. Cooper's three signs picked up?

10 A. Mr. Cooper's?

11 Q. Mayor Cooper's?

12 A. Yeah. When were they?

13 Q. Yes, sir.

14 A. The same day that one was, the 15th.

15 Q. The same day the one in Defendants' 19 was picked
16 up?

17 A. Yes, mm-hmm.

18 Q. So that was after the signs of Mr. Sokolove were
19 first picked up, correct?

20 A. That's -- yes, after -- that was on the 15th or
21 something like that.

22 Q. Do you recall if this sign was removed more than
23 once by you?

24 A. No. I don't recall. I think it was only that



1 one time.

2 Q. Do you recall when you spoke to Mr. Sokolove
3 about the signs that were located in the back of your
4 truck on the 11th?

5 A. Mm-hmm.

6 Q. Do you recall what you said to him about losing
7 your job?

8 A. About losing my job.

9 Q. Yes.

10 A. No.

11 Q. You don't recall ever making a statement to him
12 about fearing for losing your job?

13 A. No.

14 Q. You never made that statement?

15 A. Uh-uh.

16 Q. You are absolutely certain?

17 A. Yes. I asked him if he gets to be mayor, the
18 first thing I want him to do is fire me, but other than
19 that, I didn't -- wasn't worried about my job. That's
20 the last thing I'm worried about.

21 Q. Say that again. I didn't follow that. What did
22 you say to Mr. Sokolove?

23 A. I said, "When you get to be mayor, I want the
24 first official thing for you to do, I want you to fire



1 me. "

2 Q. Why did you say that?

3 A. Joke.

4 Q. Had you thought you had done something wrong?

5 A. No. Well, had I thought I done something wrong?

6 Well, yes, he told me I committed a federal offense.

7 Q. Okay. And you thought you should be fired for
8 that if he became mayor?

9 A. Well, it was a joke. I wasn't afraid of losing
10 my job. God, that's the last thing I was worried about.

11 Q. Do you recall speaking to Detective O'Bier about
12 that statement?

13 A. No. Why would I be afraid to lose my job? I'm
14 retired.

15 Q. Sir, I'm just asking you why you said it. You
16 are the one who made the statement.

17 A. I didn't say -- I did not say that.

18 Q. Now, is it your testimony that the reason you did
19 not remove the Convention Center sign is because it was a
20 directional sign?

21 A. Pardon me again?

22 Q. Mr. Rhodunda asked you about the Convention
23 Center sign, the very large one on Rehoboth Avenue?

24 A. Yes.



1 Q. And I believe he pointed out to you that there
2 was an arrow on it --

3 A. Yes, there is.

4 Q. -- and pointed. Is it because of the arrow that
5 you did not cite that sign or remove that sign?

6 A. No, because it is City sign, City sign.

7 Q. Are you aware of another sign that's located in
8 front of the Convention Center which also points to it
9 that's much smaller?

10 A. Convention Center.

11 Q. Yes, sir.

12 A. I'm sure there is.

13 Q. Mr. Rhodunda was also asking you about signs that
14 were in the back of your pickup truck that were shown on
15 Plaintiffs' Exhibit 9.

16 A. Mm-hmm.

17 Q. I believe you testified earlier that some of
18 those signs had been in your truck from a previous date
19 that you had picked up signs?

20 A. Mm-hmm.

21 Q. Is that correct?

22 A. Mm-hmm.

23 Q. I want to turn to this plot plan that
24 Mr. Rhodunda has provided us, and I think --



1 MR. RHODUNDA: I think we have one marked
2 already.

3 MR. TUCKER: No, I was looking for one that
4 was marked.

5 THE WITNESS: He has got one marked. Right
6 there.

7 MR. RHODUNDA: There you go.

8 BY MR. TUCKER:

9 Q. All right. I'm going to refer you to Defendants' Number 2. I'm also going to refer you to Defendants' 4 as well. I'm going to point you to lot 61 on Defendants' 2, okay, and I'm going to refer you to the picture which is Defendants' 4 where you put an X where you said you removed a sign.

15 A. Mm-hmm.

16 Q. I'm going to ask you, if Mr. Rhodunda doesn't have an objection, to use my pen, which is not green, it is black, and mark on Defendants' 2 where you believe the green X would be that you have marked on Defendants' 4.

20 A. Well, it is obviously not on the driveway. This is all driveway here. So it has got to be in a grassy area. Around that area somewhere.

23 Q. Why do you believe it is on public property?

24 A. Well, it is pretty obvious. It is on grass area.

1 Q. Sir, if where you put the X on Defendants' 4 was
2 actually private property and not public property, would
3 you have removed that sign in error?

4 MR. RHODUNDA: If it was private property.

5 Q. Yes.

6 A. If it was on private property and I removed it,
7 it would be an error.

8 Q. Okay. Now, looking at the plot plan in
9 Defendants' 2, you referred to a private sidewalk in
10 front of our client's restaurant, which is on lot 59,
11 correct?

12 A. Yes.

13 MR. RHODUNDA: On a public sidewalk is what
14 he talked about.

15 Q. Public sidewalk, I stand corrected.

16 Tell me on this plot plan where it indicates
17 that that is a public right-of-way.

18 A. Well, this is the end of his -- I would say his
19 line, wouldn't you think?

20 Q. I'm asking you.

21 A. Right there. That's the end of his line right
22 there. His line stops right there.

23 Q. Is there any notation on that plot plan that you
24 relied upon, that it is a public right-of-way?



1 A. Any indication?

2 Q. Yes.

3 A. You can see where his line ends and this says
4 "Rehoboth Avenue," well this is along Lake Avenue.

5 Q. Well, I see a dash where it says "Rehoboth
6 Avenue" that I'm pointing to.

7 A. I mean Rehoboth Avenue is down the street there.

8 MR. RHODUNDA: That's an arrow.

9 A. That's an arrow, actually.

10 Q. Okay. How do you know for certain that where you
11 put the X on Defendants' 4 is on Rehoboth Avenue and not
12 within the boundary --

13 A. It is not on Rehoboth Avenue. It is on Lake
14 Avenue.

15 Q. Let me finish -- - and is not on Lake Avenue or
16 was on Lake Avenue and not on lot 61? How do you know
17 that from looking at this plot plan for sure?

18 A. That was on Lake Avenue and not on Rehoboth
19 Avenue?

20 Q. No. How can you know for sure that the location
21 that you put the X on in green on Defendants' Exhibit 4
22 is located on Lake Avenue or on the right-of-way and is
23 not located within the private property known as lot 61?

24 A. Lot 61, just by looking at this, I would say it

1 has no grassy area.

2 Q. Wouldn't you need a survey to know that for sure,
3 sir?

4 A. Probably. But I would think this would be
5 adequate.

6 Q. How can you tell where that property line for lot
7 61 ends without a survey?

8 A. Well, you know what? This guy that lives in 63,
9 he said, "Get that sign out of the front of my house."

10 Q. So you relied on a neighbor to tell you where the
11 boundary was?

12 A. Well it is on, on the green area too, after the
13 sidewalk.

14 Q. Okay. But it is your testimony that you could
15 rely on a plot plan like Defendants' No. 2 and make that
16 determination?

17 A. Well, I can -- well, no.

18 Q. Okay.

19 A. I've determined that just by looking at it right
20 there, that green area.

21 Q. In fact, you didn't even have Defendants' No. 2
22 when you were out in the field, did you?

23 A. I didn't have this with me?

24 Q. Right.



1 A. Of course not.

2 Q. Okay.

3 A. You don't carry these around. I don't -- not
4 very often I get to see these.

5 Q. Okay. So is it your testimony that this exhibit
6 helps establish that --

7 A. Yes.

8 Q. -- the sign in Defendants' 4 was taken from the
9 right-of-way?

10 A. I thought it might help us out, yes.

11 Q. Do you still feel that way?

12 A. Mm-hmm.

13 Q. Can you tell me what on this exhibit you are
14 relying on that makes you feel more confident that that
15 sign was removed from public property and not private?

16 A. Well, I know for a fact just by looking at this,
17 his property line stops right here. All commercial
18 vehicles -- commercial property stops. They can build
19 right up to the property line. And his steps are right
20 there. It goes all the way down.

21 Q. Well, sir, there is a sidewalk --

22 A. There is also an iron pipe right there.

23 Q. Right.

24 A. An iron pipe right there that says his...

1 Q. And I see there is a sidewalk shown in front of
2 lot 59, correct?

3 A. Right.

4 Q. But there is not in front of 61, correct?

5 A. No.

6 Q. So does that mean the sidewalk is within lot 61?

7 A. The sidewalk is in lot 61? I would say the
8 sidewalk is in, according to this, is in 59.

9 Q. So you can't tell from looking at Defendants' 2
10 whether where you put the X is inside lot 61 or not, can
11 you?

12 A. Well, I would say this says "pavement," hell, I
13 can't put a sign in -- there is no sign in the pavement,
14 is there? Concrete pavement at that.

15 Q. I also see a rectangle here. What is that?

16 A. What rectangle?

17 Q. Right here. What is that?

18 A. I don't know. I have no clue. What is it?

19 Q. Could that be the strip coming out that you have
20 the X marked on in green?

21 A. Could be. But I would doubt it. Wouldn't you
22 say that would be -- that is on somebody's property
23 there?

24 Q. I'm asking you.



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1 A. Wouldn't you say that's on somebody's property.

2 Q. I'm asking your opinion, sir.

3 A. That's on somebody else's property.

4 MR. RHODUNDA: He has given his answer
5 numerous times. This property matches up with this
6 because this sidewalk and this sidewalk match up. You
7 cannot answer that question anymore.

8 MR. TUCKER: I just asked --

9 THE WITNESS: You can't beat a dead dog.

10 MR. SPEAKMAN: You are getting
11 argumentative.

12 MR. TUCKER: Mr. Speakman, I am not getting
13 argumentative. I haven't gotten argumentative at all. I
14 have been asking questions very politely. Your witness
15 is asking me questions, which is inappropriate. I've
16 cautioned him probably six times today not to do that.
17 If you didn't want to prep your witness and your witness
18 doesn't want to listen to me, that's not my fault, sir.
19 I'm trying my best to get through this. But I am not
20 getting argumentative with your witness.

21 Q. Sir, I'm going to show you Defendants' No. 13
22 that your lawyer marked, Mr. Rhodunda. You put a big X
23 in green on that one, correct?

24 A. Yes.

1 Q. Is it possible that the sign you removed was not
2 from where you marked the X?

3 A. It could have been.

4 Q. But closer?

5 A. Could have been down there, yes.

6 Q. Could it have been closer to the sign, the
7 directional sign up here with the arrow, where you buy
8 your parking stickers?

9 A. Oh, I don't know.

10 Q. It could have been, though?

11 A. Yeah. But I think if it wasn't here it was
12 down -- it's somewhere in that area. I just wanted to
13 make a point that it was in that part.

14 Q. Okay. For the record, I just want to be clear,
15 make sure I understand that you are not 100 percent
16 certain where you have put these X's is exactly where you
17 removed these signs; is that fair?

18 A. In the front of those houses I was. But in this,
19 it could have been anywhere in that, around that trash
20 can and that park.

21 Q. Okay.

22 A. I put the X because it was around the trash can.
23 That's where the sign was, near that trash can, around
24 that area.



1 Q. Okay. So when we look at this picture and look
2 at where you put the green X --

3 A. Yes.

4 Q. -- it could be exactly there, it could be around
5 there; is that fair?

6 A. Yes, it could be right in front of that thing,
7 for all I know, you know.

8 Q. Is it fair you can say that about the other
9 pictures where you put the X's too, it is not exact?

10 A. Yes, they are exact.

11 Q. You are certain of that?

12 A. Yes.

13 Q. You didn't go out to the site and walk these off,
14 correct?

15 A. I walked them -- when I picked those signs up, I
16 walked and picked them up. I didn't go ride along in my
17 truck and picked them up. I walked that and picked them
18 all up. I know exactly where they were. They were right
19 in front of each one of those houses where I put the X.

20 Now, that park is a big park. In front of
21 somebody's house, you kind of narrowed the area there.

22 Q. I'm going to show you Defendants' 14 where you
23 have marked X's.

24 A. Yes.

1 Q. Absolutely certain that's exactly where those
 2 signs were located?

3 A. One of them was right in there, and the other
 4 ones were -- now I said we don't see the other end of
 5 this park. They were at the other end of the park.

6 Q. Again, those X's are not exact, it is the general
 7 vicinity?

8 A. General vicinity. Like I said, if we showed a
 9 picture of the other end of the park, I can show you.
 10 But that doesn't show the other end of the park.

11 Q. I'm just referring to where you put the X's that
 12 your attorney said --

13 A. I said they are in that area.

14 MR. TUCKER: Well, I think we are done.

15 (Discussion held off the record.)

16 BY MR. RHODUNDA:

17 Q. I have three quick follow-ups for you.

18 In regard to where you marked the X on the
 19 Gerar Park --

20 A. Yes.

21 MR. SPEAKMAN: Identify the photograph
 22 number.

23 Q. Photograph 13, was the sign located on the far
 24 side of the sidewalk?

1 A. Far side of the sidewalk.

2 Q. Are you sure about that?

3 A. Yes.

4 Q. And then as far as these signs on Exhibit 14, the
5 large median strip that's landscaped and whatnot, were
6 those signs within that median area?

7 A. Yes, they were.

8 Q. And in regard to Defendants' Exhibit 19, there is
9 a telephone pole right here.

10 A. I couldn't make out for sure, but I thought it
11 was.

12 Q. If you looked at that telephone pole and looked
13 back --

14 A. Yes.

15 Q. -- was that sign in front of the telephone pole?

16 A. Sure it is. Way in front of it.

17 Q. And does this --

18 MR. TUCKER: Wait, I'm sorry. Is there a
19 telephone pole in that picture?

20 MR. RHODUNDA: Yes, right here. You can see
21 the wires going across the street.

22 BY MR. RHODUNDA:

23 Q. In addition to the landscaping shown on the
24 exhibit where the signs are behind the landscape screen,



1 that landscape marker, the signs are behind that?

2 A. Along the --

3 MR. TUCKER: I'm going to object, only that
4 Mr. Rhodunda is leading this witness. If he wants to ask
5 him a question about what the picture shows, I'm fine
6 with that.

7 BY MR. RHODUNDA:

8 Q. We have a landscape marker; is that right?

9 A. Landscape log.

10 Q. What is behind the landscape log?

11 A. The signs, all three signs were behind the
12 landscape log.

13 Q. What is behind the landscape log?

14 A. Trees.

15 Q. What is behind that?

16 A. It is somebody's house.

17 Q. Now, in regard to this landscaped area where
18 "Sokolove" sign was removed, is it the same situation as
19 in this picture?

20 A. No.

21 Q. Or is it a little island that --

22 A. They got a little island that is probably on City
23 property.

24 Q. It extends out into the road; is that right?

1 A. Yes, it does. We have a lot of those little
2 islands in town that, which we are trying to clear up a
3 little bit at a time.

4 MR. RHODUNDA: Nothing further. Thank you.

5 MR. TUCKER: I have nothing further.

6 (Proceedings conclude at 2:25 p.m.)

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DEPOSITION OF: Alexander W. Onyuk

DATE TAKEN: July 25, 2005

IN THE MATTER OF: Soloban v City of Rehoboth Beach, De.

Pursuant to Rule 30(E), this transcript was made available to the witness for examination.

The witness has failed to sign this deposition transcript within the designated 30-day period set forth in rule 30(E).

Therefore, this original transcript is being forwarded as transcribed.

DATED: 9/9/05

Barbara Reichert
Barbara Reichert
Production Manager

1 State of Delaware)
2)
3 New Castle County)

4 CERTIFICATE OF REPORTER

5
6 I, Eleanor J. Schwandt, Registered
7 Professional Reporter and Notary Public, do hereby
8 certify that there came before me on the 25th day of
9 July, 2005, the deponent herein, ALEXANDER W. ONIZUK, who
10 was duly sworn by me and thereafter examined by counsel
for the respective parties; that the questions asked of
said deponent and the answers given were taken down by me
in Stenotype notes and thereafter transcribed by use of
computer-aided transcription and computer printer under
my direction.

11 I further certify that the foregoing is a
12 true and correct transcript of the testimony given at
13 said examination of said witness.

14 I further certify that I am not counsel,
attorney, or relative of either party, or otherwise
interested in the event of this suit.

15 
16 Eleanor J. Schwandt
17 Certification No. 125-RPR
18 (Expires January 31, 2008)

20 DATED: 07-25-05
21
22
23
24